

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Twenty Third day of May Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. RAJAMANICKAM

CRIMINAL ORIGINAL PETITION No.13730 of 2018

1 ENOCH
2 MALLIGA

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NORTH THIRUPPUR,
THIRUPPUR DISTRICT.
CR.NO.NOT KNOWN/2018

[RESPONDENT]

For Petitioner : M/S.J.C.DURAIRAJ Advocate

For Respondent : M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498A & 506 (ii) IPC in Crime No.not known of 2018, seek anticipatory bail.

2. The case of the prosecution is that the petitioners herein have been demanding dowry and also harassed the defacto complainant.

3.The learned counsel for the petitioners submitted that the wife of the 1st petitioner gave a false complaint against the petitioners herein stating that they have harassed her by demanding dowry and also criminally intimidated her. He further submitted that without registering a case, the respondent police is harassing the petitioners and hence, he prayed for grant of anticipatory bail.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that a compliant has been received from the wife of the 1st petitioner and in the said complaint, she has stated that the petitioners herein have harassed her by demanding dowry and criminally intimated her and hence, the petitioners were called for enquiry, but they did not appear and filed this petition.

5.The Hon'ble Supreme Court in **Rajesh Sharma and Others Vs. State of U.P and another in Crl.A.No.1265 of 2017** has issued directions in respect of the complaints under Section 498A IPC. One

of the directions is that if any complaint is received under Section 498A IPC, the police has to refer the said complaint to the committee constituted by the District Legal Services Authority and get report from the said committee and till the receipt of said report, no arrest should be effected. The Hon'ble Supreme Court has also directed to designate an investigation officer for investigating the matter in respect of the offence under Section 498A and other connected offences. Instead of doing so, and also the respondent police without registering any case, called for the petitioners for enquiry.

6. Taking into consideration the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate I, Thirupur, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the petitioners shall report before the respondent police daily at 10.30 a.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation.

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

(vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
23/05/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NORTH THIRUPPUR,
THIRUPPUR DISTRICT.

CC to M/S.J.C.DURAIRAJ Advocate on payment of necessary charges

CRL OP.13730/2018

Date :23/05/2018

MK:24/05/2018